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In re application of :
Jay S. Huebner et al. :
Serial No.: 10/005,717 :
Filed: November 8, 2001 :
For: SENSING DEVICE AND METHOD USING PHOTO-INDUCED :
CHARGE MOVEMENTS :

DECISION ON
PETITION

This is a response to the PETITION TO THE DIRECTOR OF THE USPTO UNDER 37 C.F.R. 1.181, filed December 27, 2005. The petition requests that the Examiner's holding that the Appeal Brief filed on September 12, 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37 be reconsidered and withdrawn.

The petitioner asserts that the Examiner's holding that the Appeal Brief fails to comply with the requirements of 37 CFR 41.37 is in error and should be vacated.

This Decision is responsive to Applicant's request.

STATEMENT OF FACTS

- September 12, 2005: Applicant's filed an Appeal Brief.
- November 29, 2005: A NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF (37 CFR 41.37) was mailed in response to the Appeal Brief. The NOTIFICATION states that the "The Appeal Brief filed on September 12, 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37". In particular the notice states that "The Brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawing, if any, by reference characters (37 CFR 41.37(c)(1)(v))." and "The brief does not contain a concise explanation of the claimed subject matter and also does not identify the corresponding structure supporting the means plus function elements of the claims. See 37 C.F.R. 41.37(c)(v)."

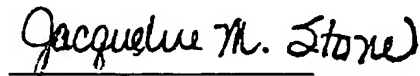
DECISION

A review of the petitioner's request and the Appeal Brief filed September 12, 2005 indicates that the request has merit for the following reasons: The Appeal Brief sets forth, in section (5) therein, a complete listing of the claims along with page and line numbers of the specification in

lateral juxtaposition to the corresponding section of the claims thus the Appeal Brief is in compliance with 37 CFR 41.37(c)(v).

Therefore, the Notification mailed November 29, 2005 is hereby withdrawn. The application shall be forwarded to the examiner for prompt consideration of the Appeal Brief filed September 12, 2005.

The Petition is **GRANTED**.



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